

No. 7.—[S. J. R. No. 26.] Joint Resolution to amend Article Five of the Constitution of the State of Texas.

Be it resolved by the Legislature of the State of Texas, That Article Five of the Constitution of the State of Texas shall be so amended as to hereafter read as follows:

ARTICLE FIVE.

Section 1. The judicial power of this State shall be vested in one Supreme Court, one Court of Appeals, in district courts, and in such inferior courts as may from time to time be created by general or special law.

Section 2. The Supreme Court shall consist of such number of justices, not less than five nor more than seven, as may from time to time be determined by the Legislature. Such justices shall be elected by the qualified voters of the State at a general election, and shall hold their offices for the term of six years.

Section 3. The chief justice and the associate justices of the Supreme Court who may be in office when this amendment goes into effect, together with a sufficient number to make the number of five, shall constitute the Supreme Court until such number shall be increased by law. Upon the adoption of this amendment, the Governor shall appoint a sufficient number of justices of the Supreme Court, in addition to those who may be in office at the time, to make the number of five, who shall hold their offices until the next general election. The justices of the Supreme Court who may be in office when this amendment is adopted, shall continue to serve until their terms of office expire by the Constitution and laws under which they were elected.

Section 4. The justices of the Supreme Court shall select from their own number a presiding officer, who shall be called the chief justice, and who shall hold for such term and perform such duties as may be prescribed by the court: *Provided*, The chief justice who may be in office at the time when this amendment shall take effect shall be the chief justice of the Supreme Court hereby established until the expiration of his term of office under his former election or appointment.

Section 5. Each justice of the Supreme Court shall be a qualified voter, shall have arrived at the age of thirty years, and shall have been a practicing lawyer in this State, or a judge of a district court therein, or such judge and lawyer together, at least seven years at the time of his election or appointment.

Section 6. Each justice of the Supreme Court shall receive an annual salary of not more than three thousand six hundred dollars.

Section 7. The Supreme Court shall have power, upon affidavit or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

Section 8. The Supreme Court shall have power to make rules of procedure for its own government, and the government of the other courts of the State over which it may have appellate jurisdiction: *Provided*, Such rules shall not be inconsistent with the laws of the State.

Section 9. The Supreme Court shall appoint a clerk for each place at which it may sit, who shall hold his office for four years, subject to removal by the court, and who shall give such bond as is or may be prescribed by law.

Section 10. The Supreme Court shall sit for the transaction of business from the first Monday in September to the last Saturday in June of every year, provided the business before it is not sooner disposed of, at the seat of government and at not more than two other places in the State.

Section 11. The Supreme Court may organize, for the more speedy dis-

patch of business, into such divisions as may be deemed expedient, and under such rules and regulations as may be prescribed by the court.

Section 12. The Supreme Court shall have appellate jurisdiction of civil cases, proceedings, and controversies, both as to law and fact, with such exceptions and under such regulations as may be provided by law.

Section 13. The Supreme Court and the justices thereof shall have power to issue all writs known to the law which may be necessary to the exercise of its jurisdiction, or to enforce the same; said court shall also have power by mandamus or otherwise to compel the district and inferior courts to proceed with the trial of cases pending in said courts of which it would have cognizance on appeal.

Section 14. The Legislature may confer upon the Supreme Court exclusive original jurisdiction to issue writs of mandamus and injunction against the heads of State departments, except as against the Governor.

Court of Appeals.

Section 15. The Court of Appeals shall consist of three judges, who shall each be elected by the qualified voters of the State at a general election, and who shall hold their offices for the term of six years. The judges of the Court of Appeals, or so many of them as there may be, who shall be in office at the time this amendment shall take effect, shall be judges of said court as hereby established, and shall hold their said offices until the expiration of their respective terms under their former election or appointments. And should there be, at the adoption of this amendment, less than three judges of said Court of Appeals, the Governor shall appoint the requisite number of additional judges to constitute a court of three members, and the judges so appointed shall hold their office until the next general election.

Section 16. The several judges of the Court of Appeals shall possess the same qualifications and receive the same salary as justices of the Supreme Court. The judges shall select from their own number a presiding judge, who shall perform such duties and hold for such term as the court may prescribe. A majority of the court shall constitute a quorum, and the concurrence of two of the judges shall be necessary to a decision. The court shall sit at the same times and places as are prescribed for the Supreme Court. The court and the judges thereof shall have power to issue the writ of habeas corpus and all writs known to the law which may be necessary to the exercise of its jurisdiction or to enforce the same. They shall also have power by mandamus or otherwise to compel the district and inferior courts to proceed with the trial of cases pending in said courts of which the Court of Appeals would have cognizance on appeal. The court shall also have power to ascertain such facts as may be necessary in the exercise of its jurisdiction.

Section 17. The Court of Appeals shall have appellate jurisdiction of criminal cases, with such exceptions and under such regulations as may be prescribed by law.

Section 18. The Court of Appeals shall appoint a clerk for each place at which it may sit, who shall hold his office for four years, subject to removal by the court, and who shall give such bond as is or may be prescribed by law.

District Court.

Section 19. The State shall be divided into a convenient number of judicial districts, consisting of one or more counties. Regular terms of the court shall be held by the district judges at the county seat of each county

in the district at least twice in each year, in such manner as may be prescribed by general or local law.

Section 20. There shall be a district judge for each judicial district, who shall be elected by the qualified voters of the district at a general election. He shall hold his office for the term of four years from the date of his election. The district judges who may be in office when this amendment takes effect shall hold their offices until the expiration of their several terms under the present Constitution and laws.

Section 21. Each district judge shall be a qualified voter and resident of the district, shall have arrived at the age of twenty-eight years, and shall have been a practicing lawyer in this State at least six years, and shall reside in his district during his term of office.

Section 22. The judges of the district courts shall receive an annual salary of twenty-five hundred dollars, which shall be paid as prescribed by law.

Section 23. The district courts shall be courts of general jurisdiction. They shall have original jurisdiction, both civil and criminal, of all cases and special proceedings of which exclusive jurisdiction is not conferred on some other court, and in civil cases such jurisdiction shall be exercised without regard to any distinction between law and equity. Contested elections and other special cases, where the right to resort to the courts arises only out of legislative action, may be referred by the Legislature to the district court, or other tribunal, with or without the right of appeal to the Supreme Court, as may be prescribed by law.

Section 24. The district court shall have such appellate jurisdiction and such control over the inferior courts and tribunals in the county as may be prescribed by law.

Section 25. The district courts, and the judges thereof, shall have power to issue the writ of habeas corpus, and to render judgment therein, either in vacation or term time. They shall also have power to issue writs of mandamus, injunction, certiorari, and all writs known to the law which may be necessary to the exercise of their jurisdiction, or to enforce the same.

Section 26. Any district judge shall have power to hold a special term of the district court in any county of his district, under such circumstances and in such manner as may be directed by general or special law.

Section 27. There shall be a clerk of the district court of each county, who shall be elected by the qualified voters of the county, and who shall hold his office for two years, whose duties and compensation shall be prescribed by law.

Section 28. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for two years, whose duties, perquisites, and fees of office shall be prescribed by law.

Section 29. The Legislature shall provide for the election of district and county attorneys, and such other officers as may be deemed necessary to the due administration of justice, define their duties, and fix their compensation. The district attorneys and county attorneys who shall be in office at the time this amendment shall take effect, shall hold their offices until the expiration of their several terms under the present Constitution and laws.

Section 30. The judicial districts in this State and the time of holding courts therein shall remain as at present until otherwise provided by law.

Section 31. The criminal district court of Galveston and Harris counties shall continue with the jurisdiction, organization, and district now ex-

isting until otherwise provided by law, and the Legislature may establish such other courts, embracing one or more counties, with such criminal jurisdiction as may be provided by law. The qualifications, salaries, and tenure of office of the judges of said courts shall be the same as for judges of the district court.

Section 32. Grand and petit juries in the district court shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills; and the Legislature may pass laws authorizing less than the whole number of a petit jury to render a verdict in civil and misdemeanor cases.

Section 33. All vacancies in the office of justice of the Supreme Court or Court of Appeals, or of judges of the district courts, shall be filled by the Governor by appointment for the unexpired term.

Section 34. The Legislature shall from time to time, by general or local law, establish county courts and such other inferior courts, and provide for their officers, with such jurisdiction and qualification and powers as may be deemed expedient: *Provided*, The judges and presiding officers of such courts shall be elected, and until such courts are provided the district and other inferior courts now in existence, together with their officers, shall continue, and shall exercise the powers and jurisdiction now conferred on them; and appeals shall lie as at present, except that civil cases heretofore appealable to the Court of Appeals shall, until otherwise provided by law, be appealable to the Supreme Court, under the rules and regulations now prescribed for appeals to that court: *Provided*, The Court of Appeals shall determine all civil cases pending before it at the time this amendment shall be declared a part of the Constitution.

Section 35. No justice or judge shall sit in any case wherein he may be interested in the question to be decided, or where either of the parties may be connected with him by affinity or consanguinity within such degree as may be prescribed by law, or where he shall have been counsel in the case. When a justice of the Supreme Court, or of the Court of Appeals, shall be disqualified to hear and determine any case or cases in said court, the same shall be certified by such court to the Governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of such case or cases. When the judge of a district court is disqualified, the parties may, by consent, appoint a proper person to try the case, or, upon their failure to do so, a competent person may be appointed by the Governor to try the case, in the county where it is pending, in such manner as may be prescribed by law. The district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

Section 36. District clerks, sheriffs, prosecuting attorneys, and other officers, provision for whose removal from office is not otherwise specially provided for, may be removed from office by the judges of the district courts, for incompetency, official misconduct, habitual drunkenness, or drunkenness which does not amount to habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing, and the finding of its truth by a jury. Vacancies in all offices shall be filled as may be prescribed in this Constitution, or, in the absence of constitutional provisions, then, in such manner as may be prescribed by law; and, until otherwise provided, vacancies in office shall be filled in the manner now prescribed.

Section 37. The Legislature shall not create any court inferior to the district court with jurisdiction of suits in behalf of the State to recover

penalties, forfeitures, and escheats; of suits to recover damages for slander or defamation of character; of suits for divorce; or of suits for trial of title to land, or for the enforcement of liens thereon, except liens acquired by levy of process issued out of such court, or of civil cases wherein the amount in controversy exceeds one thousand dollars.

[Sec. 2.] Section 38. *And be it further resolved*, That the Governor be requested to submit to the vote of the State the foregoing proposed amendment to the Constitution at an election to be ordered on the first Thursday in August, A. D. 1887, in accordance with the provisions of Article 17 of the State Constitution; and at said election those desiring to vote for said amendment shall have written or printed upon their tickets the words, "For amendment of Article 5, relating to the judiciary," and those desiring to vote against said amendment shall have written or printed upon their tickets the words, "Against amendment of Article 5, relating to the judiciary."

Approved, April 4, 1887.

THE STATE OF TEXAS,
DEPARTMENT OF STATE.

I, J. M. Moore, Secretary of State of the State of Texas, certify that the foregoing laws and joint resolutions, passed at the regular session of the Twentieth Legislature, have been carefully examined and compared with the original enrolled bills now on file in this department, and with the exception pointed out in the erratum, are true copies of said originals.

I further certify that the Twentieth Legislature convened in the City of Austin January 11, A. D. 1887, and adjourned April 4, A. D. 1887.

In testimony whereof I have subscribed my name, and hereto
[SEAL.] affixed the seal of the State of Texas, in the City of Austin,
April 14, 1887.

J. M. MOORE,
Secretary of State.

ERRATUM.

Page 100, Chap. 106, first line of Sec. 3, for "Llano," read *Lamb*.